

State of South Dakota

SEVENTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 1997

555A0001

HOUSE TAXATION COMMITTEE ENGROSSED NO. **HB1005** - 1/29/97

Introduced by: Representatives Cutler, Broderick, Pederson (Gordon), and Schaunaman and
Senators Drake and Dennert at the request of the Interim Central Assessed
Property Committee

1 FOR AN ACT ENTITLED, An Act to revise certain terms relating to true and full value.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 10-28-12 be amended to read as follows:

4 10-28-12. The secretary of revenue shall, in determining the ~~true and full~~ fair market value
5 of the property ~~assessed by him~~, value all the property of any railroad company as a unit, but
6 shall make due allowance for any nonoperating property.

7 Section 2. That § 10-28-13 be amended to read as follows:

8 10-28-13. For the purpose of determining the ~~true and full~~ fair market value of the property
9 of any railroad company, the secretary of revenue shall take into consideration the cost approach,
10 the market approach, and the income approach to appraisal. In the market approach, the
11 secretary shall consider the actual or market value of the shares of stock outstanding, the actual
12 or market value of all bonds outstanding and all other indebtedness as ~~shall~~ may be applicable,
13 for operating the road. In the income approach, the secretary may consider the company's growth
14 rate and the rate of inflation in determining the capitalization rate. The secretary of revenue may

1 take into consideration any other information or data of any kind or nature which ~~he may deem~~
2 the secretary deems material in arriving at the ~~true and full~~ fair market value of the property.

3 Section 3. That § 10-29-9 be amended to read as follows:

4 10-29-9. In making such assessment, which ~~shall be with~~ is in reference to value and
5 ownership on February first of the year for which the assessment is made, the secretary of
6 revenue shall determine the ~~true and full~~ fair market value of that flight property actually
7 providing service in this state.

8 Section 4. That § 10-29-9.1 be amended to read as follows:

9 10-29-9.1. The flight property of an airline company that owns or leases aircraft the majority
10 of which are turboprops and other propeller driven aircraft, and which provides, during six
11 months or more of the year that the taxes are levied, scheduled passenger service to three or
12 more airports inside or outside of this state that serve communities of one hundred thousand or
13 less population, shall be assessed at fifty percent of its ~~full and true~~ fair market value as provided
14 in § 10-29-9.

15 Section 5. That § 10-33-14.1 be amended to read as follows:

16 10-33-14.1. For the purpose of determining the ~~true and full~~ fair market value of the property
17 of any telephone company, the Department of Revenue shall take into consideration the cost
18 approach, the market approach, and the income approach to appraisal. In the market approach,
19 the department shall consider the actual or market value of the shares of stock outstanding, the
20 actual or market value of all bonds outstanding, and all other indebtedness as ~~shall~~ may be
21 applicable for operating the company. In the income approach, the department may consider the
22 company's growth rate and the rate of inflation in determining the capitalization rate. The
23 Department of Revenue may take into consideration any other information or data of any kind
24 or nature which the department may deem material in arriving at the ~~true and full~~ fair market
25 value of the property.

Section 6. That § 10-34-9 be amended to read as follows:

10-34-9. The Department of Revenue shall carefully consider all reports and statements made as provided in §§ 10-34-3 and 10-34-4, all other facts and evidence collected or available and any and all other matters necessary to enable the Department of Revenue to make a just and equitable assessment of such property. The Department of Revenue may change the valuation given by the telegraph company, or add any property omitted therefrom, and shall proceed to determine the ~~true and full cash~~ fair market value of the entire property of each of such telegraph companies in this state, according to the rule set forth in § 10-34-10.

Section 7. That § 10-34-10.1 be amended to read as follows:

10-34-10.1. For the purpose of determining the ~~true and full~~ fair market value of the property of any telegraph company, the Department of Revenue shall take into consideration the cost approach, the market approach, and the income approach to appraisal. In the market approach, the department shall consider the actual or market value of the shares of stock outstanding, the actual or market value of all bonds outstanding, and all other indebtedness as ~~shall~~ may be applicable for operating the company. In the income approach, the department may consider the company's growth rate and the rate of inflation in determining the capitalization rate.

The Department of Revenue may take into consideration any other information or data of any kind or nature which the department may deem material in arriving at the ~~true and full~~ fair market value of the property.

Section 8. That § 10-35-10.1 be amended to read as follows:

10-35-10.1. For the purpose of determining the ~~true and full~~ fair market value of the property of any public utility company, the Department of Revenue shall take into consideration the cost approach, the market approach, and the income approach to appraisal. In the market approach, the department shall consider the actual or market value of the shares of stock outstanding, the actual or market value of all bonds outstanding, and all other indebtedness as ~~shall~~ may be

1 applicable for operating the company. In the income approach, the department may consider the
2 company's growth rate and the rate of inflation in determining the capitalization rate. The
3 Department of Revenue may take into consideration any other information or data of any kind
4 or nature which the department may deem material in arriving at the ~~true and full~~ fair market
5 value of the property.

6 Section 9. That § 10-37-8 be amended to read as follows:

7 10-37-8. The property shall be valued at its ~~true and full~~ fair market value, and the
8 assessment shall be made upon the ~~true and full~~ fair market value of the entire pipeline property
9 within the state and shall include the rights-of-way, easements, the pipelines, stations, grounds,
10 shops, buildings, pumps and all other property, real and personal, exclusively used in the
11 operation of ~~such~~ the pipeline. In assessing any pipeline company and its equipment, the
12 Department of Revenue shall take into consideration the gross earnings and the net earnings for
13 the entire property, and per mile, for the year ending December thirty-first preceding, and any
14 and all other matters necessary to enable the department to make a just and equitable assessment
15 of pipeline property.

16 Section 10. That § 10-37-9.1 be amended to read as follows:

17 10-37-9.1. For the purpose of determining the ~~true and full~~ fair market value of the property
18 of any pipeline company, the Department of Revenue shall take into consideration the cost
19 approach, the market approach, and the income approach to appraisal. In the market approach,
20 the department shall consider the actual or market value of the shares of stock outstanding, the
21 actual or market value of all bonds outstanding, and all other indebtedness as ~~shall~~ may be
22 applicable for operating the company. In the income approach, the department may consider the
23 company's growth rate and the rate of inflation in determining the capitalization rate. The
24 Department of Revenue may take into consideration any other information or data of any kind
25 or nature which the department may deem material in arriving at the ~~true and full~~ fair market

1 value of the property.

2 Section 11. That § 10-38-1 be amended to read as follows:

3 10-38-1. All utilities assessed by the Department of Revenue shall ~~be given~~ have an
4 opportunity for a hearing before ~~said the~~ department during the months of June and July, ~~which~~
5 ~~hearings shall be~~ for the purpose of determining the ~~true and full~~ fair market value of ~~such the~~
6 utilities or ~~in of~~ obtaining additional information or ~~in of~~ making corrections on the reports of
7 utilities as previously submitted. The hearings prescribed by this section shall be held upon ten
8 days' notice to the utility concerned and subsequent to ~~such the~~ hearing the Department of
9 Revenue shall notify the company, in writing, of the amount of its taxable gross receipts or ~~true~~
10 ~~and full~~ fair market value for the year.

11 Section 12. That § 10-38-14 be amended to read as follows:

12 10-38-14. If any tax assessment or tax assessed or levied originally and directly by the
13 Department of Revenue is ~~or has been~~ adjudged illegal and nonenforceable, or set aside by any
14 court of competent jurisdiction, the secretary of revenue, whether any part of the taxes assessed
15 or levied has been paid or not, shall ~~forthwith~~ reascertain and redetermine the ~~full and true~~ fair
16 market value of all the taxable property of ~~such person or company~~ the utility.

17 Section 13. As used in this Act, the term, fair market value, means the price in money that
18 property will bring in a competitive and open market under all conditions requisite to a fair sale
19 between a willing buyer and a willing seller, each acting prudently and with full knowledge of the
20 relevant facts, and assuming the price is not affected by any undue stimulus.

1 **BILL HISTORY**

2 January 14 - First read in House and referred to Taxation. H.J. 23

3 January 21 - Deferred to another day.

4 January 23 - Scheduled for hearing.

5 January 28 - Scheduled for hearing.

6 January 28 - Passed as amended, AYES 12, NAYS 1. H.J. 165